



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/789,680

02/27/2004

Richard Fears

300568

7544

42074 7590 01/22/2009
FAEGRE & BENSON, LLP
ATTN: PATENT DOCKETING (32469)
2200 WELLS FARGO CENTER
90 SOUTH SEVENTH STREET
MINNEAPOLIS, MN 55402-3901

EXAMINER

LUBIN, VALERIE

ART UNIT

PAPER NUMBER

3626

NOTIFICATION DATE

DELIVERY MODE

01/22/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

e-OfficeActionBSC@faegre.com

Office Action Summary	Application No. 10/789,680	Applicant(s) FEARS ET AL.	
	Examiner VALERIE LUBIN	Art Unit 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 February 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☒ Claim(s) 14 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>2/8/08, 11/09/05, 07/19/04</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Acknowledgements

1. Claims 1-18 are pending

For reference purposes, the document paper number is 20090112

Claim Objections

2. Claim 14 is objected to because of the following informalities: the claim is a duplicate of claim 13. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 16 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claim 16, which depends on claim 11, recites a fourth user interface; however, neither claim 11 nor claim 16 recite a third user interface. The scope of the claim is therefore unclear.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Webb U.S. Patent No. 6,644,322.

8. With respect to claim 1, Webb discloses a system comprising an antenna (Col. 15 line 43); a receiver comprising a processor (Col. 15 lines 44-45; col. 21 lines 61-63) and a computer readable medium (Col. 4 lines 10-15).

Webb does not specifically recite instructions stored on the computer readable medium and multiple interfaces; however, he does recite receiving a data set from an implantable medical device or IMD and providing a user interface (Col. 4 lines 37-42); identifying a set of data derived from the IMD (Col. 4 lines 48-51); querying for data based on previously entered data by a physician (Col. 4 lines 48-56) and communicating data to a server via a network (Fig.1 elements 282 and 400). Since Webb discloses one interface, It would therefore have been obvious to one of ordinary space to provide as many interfaces as necessary to complete the disclose steps performed by Webb and to store those steps on the disclosed computer readable medium in order to be able to execute the steps on different computers.

Webb discloses physician entered data. He does not specifically recite physician entered objective data and subjective data; however, the type of physician entered data queried does not further limit claim 1, as it is non-functional descriptive material (In re Gulack, 217 USPQ 401 (Fed. Cir. 1983), In re Ngai, 70 USPQ2d (Fed. Cir. 2004), In re Lowry, 32 USPQ2d 1031 (Fed. Cir. 1994); MPEP 2106.01 II)

Claims 7, 8, 11, 15 are rejected under the analysis of claim 1.

9. Claim 2 is rejected, as Webb discloses the antenna electrically coupled to the receiver (Fig 3 elements 56 and 78; col. 15 lines 43-45).

Claim 9 is rejected under the analysis of claim 2.

10. Claim 3 is rejected as Webb recites a programmer (Col. 12 line 53) and a removable computer readable medium (Col. 4 lines 12-21).

Claims 4 and 12 are rejected under the analysis of claim 3.

11. Claim 5 is rejected as Webb recites a local area network, the Internet, and a public switched telephone network (Col. 6 lines 14-19).

Claim 10 is rejected under the analysis of claim 5.

12. With respect to claim 6, Webb discloses a mobile input device (Col. 9 lines 25-32); verifying data and displaying the data (Col. 5 lines 16-27).

Claims 16-18 are rejected under the analysis of claim 6

13. With regard to claim 13, Webb discloses providing a programmer with an antenna (Col. 15 lines 32-33; 43-45) with the antenna and programmer receiving data (Col. 12 lines 64-67); and storing the data in a removable computer readable medium (Col. 13 lines 40-42).

Claim 14 is rejected under the analysis of claim 13.

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Joffe Pre-Grant Pub No. 2003/0233250 and Norris et al. U.S. Patent No. 6,669,631 disclose many of Applicant's system and method limitations.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to VALERIE LUBIN whose telephone number is (571)270-5295. The examiner can normally be reached on Monday-Friday 7:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher L. Gilligan can be reached on 571-272-6770. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

VL

/C Luke Gilligan/
Supervisory Patent Examiner, Art Unit 3626